

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NEWPORT NEWS DIVISION**

**VALENTYNA GUDYM,**

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Plaintiff,

\*

v.

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**LAW OFFICES OF  
SHAPIRO, BROWN & ALT, LLP, et al.**

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Defendants.

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\* Civil Action No: 4:12-cv-85 AWA-DEM

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**SB&A AND PFC'S MEMORANDUM IN SUPPORT OF ITS  
MOTION TO TRANSFER**

Defendants Shapiro, Brown & Alt, LLP (“SBA”) and Professional Foreclosure Corporation of Virginia (“PFC”), by counsel, hereby submit this memorandum in support of their motion to dismiss the Complaint filed by Plaintiff Valentyna Gudym pursuant to Federal Rule of Civil Procedure 12(b)(3) and 12(b)(6), and in support thereof, state as follows:

**I. This action should be dismissed and/or transferred to the Alexandria Division.**

Plaintiff's claim is filed in the wrong venue. Under 28 U.S.C. §1391(b), because all of the defendants are residents of Virginia, the present action must be brought in a judicial district where any defendant resides, or where a substantial part of the events giving rise to the claim

occurred.<sup>1</sup> Pursuant to Local Civ. R. 3(C), “[t]he venue rules stated in 28 U.S.C. § 1391 et seq. also shall apply to determine the proper division in which an action shall be filed. For the purpose of determining the proper division in which to lay venue, the venue rules stated in 28 U.S.C. § 1391 et seq. shall be construed as if the terms "judicial district" and "district" were replaced with the term ‘division.’”

Here, the Newport News Division is not a permissible venue: no defendant resides in Newport News nor are any of the events alleged to have given rise in Newport News. Specifically, Plaintiff purports to reside in Fairfax County, which is located in the Alexandria Division. See Local Civ. R. 3(b)(3). Defendant SBA has offices in Fairfax and Virginia Beach, see Compl. at ¶3, which is in the Alexandria Division and Norfolk Division, respectively. See Local Civ. R. 3(b)(3). Moreover, the causes of action relate to a letter sent by “Defendants” to Plaintiff. Accordingly, venue does not lie in this Court.

To the extent that this action was filed in Newport News to be consolidated with other mediations set in other FDCPA cases against these Defendants that have been brought by

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<sup>1</sup> Specifically, 28 U.S.C. §1391(b) provides:

- (b) Venue in general. A civil action may be brought in--
  - (1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;
  - (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or
  - (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

28 U.S.C. §1391(b).

Plaintiff's attorneys, then Defendants consent to venue in this Division solely for the purpose of mediation.

Otherwise, Defendants request that the action be transferred to a proper venue, see Local Civ. R. 3(C) (providing for transfer upon filing in improper Division), specifically, the Norfolk Division, or alternatively the Alexandria Division.

Further, because this action is premised upon claims under the Fair Debt Collection Practices Act, which provides for attorney's fees to the successful Plaintiff, Defendants request that any order transferring the action exclude any fees in connection with the transfer.

Dated: July 2, 2012

Respectfully Submitted,  
SHAPIRO, BROWN & ALT, LLP and  
PROFESSIONAL FORECLOSURE  
CORPORATION OF VIRGINIA  
*By Counsel*

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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of July, 2012, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF System, which will then send a notification of such filing (NEF) to the following:

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